

## **NEPRA (Supply of Electric Power by the Distribution Companies) Regulations, 2015**

S.R.O \_\_\_\_\_/2015.— In exercise of the powers conferred by section 47 read with section 7 and 23 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997) the National Electric Power Regulatory Authority, is pleased to make the following Regulations in order to establish a framework for the regulation of sale of electric power by a Distribution Company to other Distribution Companies including housing colonies, housing societies, multi-storey buildings, industrial estates and residential/commercial complexes meeting the criteria to be qualified as distribution company for re-sale or sale under O&M Agreement Arrangement to entities including housing societies, housing colonies, multi storey buildings, industrial estates and residential/commercial complexes etc not given the status of a distribution company for retail sale, namely:-

### **PART-I PRELIMINARY**

**1. Short title, commencement and application.** — (1) These Regulations may be called NEPRA (Supply of Electric Power by the Distribution Companies) Regulations, 2015.

(2) They shall come into force at once.

**2. Definitions.** - (1) In these Regulations unless there is anything repugnant in the subject or context,—

- (a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997);
- (b) "Applicable Documents" means the rules and regulation issued in pursuance of the Act by the Authority, from time to time, the generation, distribution and transmission licences, the Grid and Distribution Codes and any documents, instruments, approvals, directions or authorizations issued or granted by the Authority in exercise of its powers

under the Act and any document in each case of a binding nature applicable to the licensee;

- (c) "Authority" means the National Electric Power Regulatory Authority established under the Act;
- (d) "Charges" means any charges including the connection charges duly approved by the Authority which a Distribution Licensee recovers from the consumers of electric power;
- (e) "Consumer" means a person or his successor-in-interest who purchases or receives electric power for consumption and not for delivery or re-sale to others, including a person who owns or occupies a premises where electric power is supplied;
- (f) "Cost of generation" means a cost incurred by a generation company for generation of electricity for supply to its consumers or bulk power consumers or a Distribution Licensee as the case may be;
- (g) "Distribution Company" or "DISCO" means a person engaged in the distribution and sale of electric power;
- (h) "Distribution Licensee" means an entity licensed to undertake distribution business under section 20 and 21 of the Act and a Secondary Distributor holding a distribution licence pursuant to these Regulations;
- (i) "Distribution Margin" means the rate determined or approved by the Authority comprising of operations & maintenance cost, return on rate base, depreciation, taxes, other regulatory cost including other income for running the distribution business;
- (j) "Distribution Rules" means the NEPRA Licensing (Distribution) Rules, 1999;
- (k) "Host DISCO" means a Distribution Company supplying electricity to any other Distribution Company for the purpose of these regulations;

- (l) “O&M Fee” means a fee agreed between the Distribution Company and the O&M operator duly approved by the Authority, for the services rendered by the O&M Operator on behalf of the Distribution Company as per the O&M Agreement;
- (m) “Operation & Maintenance (O&M) expenses” means all those legitimate expenses, which are incurred or required to be incurred for maintaining the distribution network constructed for supply of electricity to the Consumers;
- (n) “Operation & Maintenance (O&M) Agreement” means an agreement entered into between a Distribution Company and an O&M Operator for operation and maintenance of an area within the service territory of a Distribution Company on behalf of the Distribution Company subject to approval of the Authority;
- (o) “Power Purchase Rate” means a rate duly approved by the Authority at which a Distribution Company purchases electricity from another Distribution Company;
- (p) “Sale Rate” means a rate determined by the Authority for a Distribution Company in accordance with the Tariff Rules for the sale of electric power to other Distribution Company or to the O&M Operator within the service territory of a Distribution Company at one point;
- (q) “Secondary Distributor” means a housing society, housing colony, multi storey building, industrial estate and residential/commercial complex, receiving electric power from a Host DISCO at a Single Point Supply or directly from its own generation facility, in order to distribute/re-distribute, sell/resell or supply the same to its residents/occupants, inhabitants at the tariff approved/determined by the Authority;
- (r) “Single Point Supply” means the point at which the distribution facilities of a Distribution Company is connected to the distribution facilities of a Secondary Distributor or another Distribution Company;
- (s) “Tariff Rules” means NEPRA Tariff (Standards and Procedures) Rules, 1998;

- 2) The words and expressions used but not defined in these Regulations shall have the same meaning as are assigned to them in the Act or the Distribution Rules.

## **PART-II**

### **APPLICATION AND PROCEDURE**

**3. Application and the grant of a Distribution Licence.** —(1) Any Distribution Company may sell electric power to another Distribution Company in terms of Section 23 of the Act at the tariff, rates, charges and as per the terms and conditions of sale and purchase of electric power determined by the Authority in accordance with the procedure prescribed for tariff determination in the Tariff Rules.

(2) Any housing colony, housing society, multi-storey building, industrial estate, residential/commercial complexes receiving electric power from any Distribution Company for sale to its residents/occupants, notwithstanding such activity has been taking place before or after coming into force of the Act, on fulfilment of the eligibility criteria prescribed in these Regulations and the NEPRA Distribution Rules, shall file an application to the Authority for the grant of a Distribution Licence in accordance with the procedure provided in the NEPRA Distribution Rules:

Provided that any Secondary Distributor not fulfilling the eligibility criteria prescribed in these Regulations may apply for the Operation & Maintenance Arrangement in accordance with Regulation 6.

(3) In addition to a Distribution Licence as provided in sub-regulation (2), an application to the Authority for the determination of tariff, rates, charges and the terms and conditions of sale of electric power to its residents/consumers/inhabitants in accordance with the Tariff Rules shall also be required to be filed.

**4. Eligibility for the grant of Distribution Licence.** —(1) In order to obtain a Distribution Licence for the purposes of these Regulations, the sanctioned load of the applicant's proposed distribution network shall not be less than 20 MW and the applicant shall have its own 132 kV grid station.

(2) In addition to the requirements provided in regulation (1), the application for grant of distribution licence shall be accompanied by:

- i). evidence of adequate and necessary technical, financial and organizational capabilities to construct, develop, manage and maintain the proposed distribution network;
  - ii). evidence demonstrating its ability to fulfil the requirements of section 21 the Act, NEPRA Licensing(Distribution) Rules,1999 and other relevant provisions of the applicable law.
- (3). Any housing society, housing colony, multi-storey building, industrial estate or residential and commercial complex engaged in procuring electricity from a Distribution Company at a Single Point Supply Rate and selling the same to the residents/consumers prior to the commencement of the Act, may file an application for grant of a Distribution Licence without obtaining no objection certificate from the respective Distribution Company.
- (4). Any housing society, housing colony, multi storey building, Industrial Estate or Residential and Commercial Complex procuring electricity from any Distribution Licensee at a Single Point Supply Rate and selling it to the consumers within the service territory of a Distribution Company after the commencement of the Act that fulfils the eligibility criteria to be a distribution company, shall apply for the grant of a Distribution Licence after obtaining a no objection certificate from the respective Distribution Company, in the form specified in the Schedule-A:

Provided that in case the respective Distribution Company refuses to issue a no objection certificate, the Authority may in appropriate cases initiate Authority Proposed Modification to the license of the Distribution Company under section 26 of the Act, 1997 read with Regulation 10 of NEPRA Licensing (Application & Modification Procedure) Regulations, 1999 to carve out the service territory of the DISCO after being satisfied that such modification is in the public interest.

**5. General Terms and conditions.—**The Secondary Distributor shall.—

- (i) Comply with all the relevant Applicable Documents at all times unless their applicability is specifically exempted by the Authority;
- (ii) All the consumers (including housing society, housing colony, multi-storey building, industrial estate and residential or commercial complex) which have been procuring electricity from any Distribution Company at a Single Point Supply Rate and selling the same to the residents/consumers prior to the commencement of the Act have the option either to:
  - a) surrender their distribution network to the DISCO, or
  - b) obtain a Distribution Licence from the Authority subject to fulfilment of eligibility criteria, or
  - c) enter into O&M Agreement with a DISCO as per regulation 6 and submit the same for the approval of the Authority.

**6. Approval Requirements under Operation & Maintenance Arrangement.—(1)**

Any housing colony, housing society, multi-storey building, industrial estate, residential/commercial complex not fulfilling the eligibility criteria for grant of a distribution licence interested to takeover or develop the distribution network in its respective area/territory or territory of a Distribution Company, may enter into an Operation & Maintenance Agreement, with the concerned Distribution Company on the terms and conditions approved by the Authority on the application jointly made by the respective Distribution Company and the housing colony, housing society, multi-storey building, industrial estate, residential/commercial complex as the case may be alongwith draft O & M Agreement.

- (2) Under the Operation & Maintenance arrangement the respective area shall remain the service territory of the respective DISCO and the residents/occupants/inhabitants shall be the consumers of the respective DISCO.

- (3) Under the Operation & Maintenance arrangement the consumer-end tariff shall be as approved by the Authority and the O&M Operator shall be entitled only for the O&M Fee approved by the Authority.

### **PART-III**

#### **TARIFF**

- 7. Tariff for Power Purchase by a Distribution Company from another Distribution Company.** —(1) For the purposes of sale of electric power by a DISCO to other Distribution Companies, a separate category of tariff along with terms and conditions shall be incorporated in Distribution Companies' schedule of tariff as determined by the Authority in accordance with Sections 7 and 23 of the Act read with rule 3 of Tariff Rules.
- (2) The tariff for DISCO to DISCO sales and DISCO to housing colony, housing society, multi-storey building, industrial estate, residential/commercial complex under O&M Arrangement shall comprise of:
- (i) energy transfer charge as per the transfer price mechanism approved and notified in the case of National Transmission and Despatch Company,
  - (ii) capacity transfer charge as per the transfer price mechanism approved and notified in the case of National Transmission and Despatch Company,
  - (iii) Use of System Charges determined for a Distribution Company for its different voltage levels; and
  - (iv) Operation and Maintenance Fee or Charges in case of O&M Operator or a Distribution Company engaged in resale as the case may be.
- (3) A Distribution Licensee shall also be allowed to procure power directly from the power producers at a rate duly approved by Authority to cater for its shortfall after procuring electric power from the electricity pool as approved by the Authority:

Provided that the Distribution Licensee shall be entitled to retain the gain, if any, from the sale of power procured directly from the power producers as far as this does not increase the consumer-end rate approved by Authority.



- (4) While determining Use of System Charges for sale to other DISCOs and to the housing colony, housing society, multi-storey building, industrial estate, residential/commercial complex under O&M Arrangement, the Distribution Margin shall be adjusted for technical losses and investment made to the extent of respective voltage levels at which the sale is intended to be made:

Provided that no benefit on account of other income in the Use of System Charges for sale to other DISCOs and to the housing colony, housing society, multi-storey building, industrial estate, residential/commercial complex under O&M Arrangement shall be granted.

- (6) The tariff for consumers of the housing colony, housing society, multi-storey building, industrial estate, residential/commercial complex as a Distribution Licensee shall include power purchase cost, allowance for distribution technical losses and O&M (salaries & wages, maintenance expenses for repair & maintenance of distribution network and other administrative expenses), approved by the Authority on the basis of verifiable documentary evidence.

**8. Consumer-end Tariff.** —(1) While determining the Consumer-end tariff the Authority shall consider the following:

- (i) All costs are prudently incurred to meet the load growth for demonstrated needs of the Consumers;
- (ii) The cost of service to consumer groups with similar service requirements;
- (iii) Stability and predictability of tariffs for Consumers;
- (iv) If the distribution company is a housing society, housing colony, multi storey building, industrial estate and residential or commercial complex, the following shall not be included in the revenue requirement:
  - (a) Depreciation expenses; and
  - (b) Return on Assets.

- (v) Any adjustment in the tariff components of power purchase rate or generation cost shall be passed on to the consumers in accordance with the approved mechanism.

## **PART-IV**

### **OTHER PROVISIONS**

**9. Period of Supply.** —(1) The period of supply of power from the Distribution Licensee shall be mutually determined by the Distribution Licensees i.e. seller/purchaser.

Provided that the Distribution Licensees shall strictly comply with the provisions of the Consumer Service Manual and NEPRA Performance Standards (Distribution) Rules, 2005 including load maintenance plans and priorities and principles of load shedding.

**10. Exemption under section 24 of the Act.** — Any co-operative housing society or a society established under any statute for the time being in force, applying for a distribution licence under these regulations is exempted from the requirement of being a company contained in section 24 of the Act.

**11. Power of the Authority to give directions, instructions and guidelines.**— (1) For carrying out the purposes of these Regulations, the Authority may issue directions, instructions and guidelines to the Distribution Licensees in the form and manner determined by the Authority, which shall be complied with by the Distribution Licensees.

**12. Power to require information.**—The Authority may, at any time, by notice in writing require any director, officer, office bearer and member of a Distribution Licensee, generally or in particular to furnish it within the time specified therein or such further time as the Authority may allow, with any statement or information or document relating to the business or affairs of such Distribution Licensee and without prejudice to the generality of the foregoing power, may call for information, at such intervals as the Authority may deem necessary.

**13. Maintenance of Records.**— (1) The Distribution Licensee shall keep complete and accurate records and other data in respect of all aspects of the provision of electric power services and of their nature in the manner as may be specified by the Authority.

(2) All records and data referred to in sub-regulation (1) shall, unless provided otherwise under any law or the Applicable Documents, be maintained in good order and condition for a period of five years after the creation of such record or data, provided that the Distribution Licensee shall not destroy or dispose of any such records or data after the period aforesaid without thirty days prior notice, in writing, to the Authority and the Distribution Licensee shall not dispose of or destroy any records or data which the Authority directs the Distribution Licensee to preserve.

(3) The Authority may enter any premises of the Distribution Licensee where the records and data referred to in sub-regulation (1) are kept for the examination or the taking of copies thereof during office hours.

**14. Resolution of disputes.**—Any dispute or disagreement between Distribution Licensees relating to any matter arising out of, or in connection with, the activities covered under these Regulations shall be submitted for decision to the Authority.

**15. Monitoring of standards.**—The Authority shall periodically monitor the compliance by the Distribution Licensees with these Regulations and may require the Distribution Licensees to undertake a performance audit at the Distribution Licensees expense, for the purpose of monitoring the same.

**16. Saving of rights.**—Notwithstanding anything contained in these Regulations, nothing shall in any way effect or diminish the rights of the Distribution Licensees under their respective licenses granted by the Authority.

**17. Penalty for failure, refusal to comply with, or contravention with any provision of these regulations.**— If any person fails or refuses to comply with, or contravenes any of the provisions of these Regulations or any direction or order passed by the Authority under these Regulation or knowingly or wilfully authorizes or permit such failure, refusal or contravention, he shall, be punishable with a fine which may extend to 100 million rupees.